

Department of Public Health
and Human Services

Section:
CHILD SUPPORT

FAMILY MEDICAID

DRAFT

Subject:
Good Cause for Non-Cooperation

Supersedes: FMA 902-1, 07/01/05

References: 42 CFR 433.147; ARM 37.82.101, .416



GENERAL RULE--An adult applicant for or recipient of family-related Medicaid (FM, QP, EC) has the right to claim good cause for not cooperating with the requirement to assist in establishing paternity and enforcing medical support obligations.

Every applicant/recipient receives written notice of the right to claim good cause (HCS-333, "Good Cause Notice"). This notice includes the specific circumstances under which a claim may be made and the respective responsibilities of the recipient and the state agency in the procedures for filing, developing, acting upon, and appealing a claim.

The HCS-333 must be signed and dated by the individual and the eligibility case manager. A copy is given to the applicant/recipient and the original filed in the case record.

The applicant/recipient may claim good cause if pursuing medical support may be 'against the best interests of the child' and only if their cooperation to assist the State is reasonably anticipated to result in:

1. Physical or emotional harm to the child or custodial parent/ specified caretaker relative; **or**
2. At least one of the following circumstances exists:
 - a. The child for whom support is sought was conceived as a result of incest or forcible rape;
 - b. Legal adoption proceedings are pending before a court of competent jurisdiction; or
 - c. The applicant/recipient is currently being assisted by a public or licensed private social services agency to resolve the issue of whether to keep the child or relinquish him for adoption, and the discussions have gone on for no more than three (3) months.

The good cause determination is based on the corroborative evidence provided by the recipient. The recipient must:

Section: CHILD SUPPORT

Subject: Good Cause for Non-Cooperation

1. State the circumstances upon which the claim is based;
 2. Provide corroborative evidence within 20 days from the date the claim was made; and
- NOTE:** If additional time is required, the county director or designee shall allow a reasonable extension.
3. Upon request, provide additional corroborative evidence. If additional evidence is necessary, the eligibility case manager must:
 - a. Promptly notify the applicant/recipient that additional evidence is required;
 - b. Specify the type of document needed and how to obtain it; and
 - c. Make a reasonable effort to obtain any specific documents that the applicant/recipient is not able to obtain without assistance.

PROOF OF GOOD CAUSE

A good cause claim may be corroborated with the following types of evidence:

1. Birth certificates or medical or law enforcement records that indicate the child was conceived as the result of incest or forcible rape;
2. Court documents or other records which indicate that legal proceedings for adoption are pending before a court of competent jurisdiction;
3. Court, medical, criminal, child protective services, social services, psychological, or law enforcement records which indicate that the putative father or non-custodial parent might inflict physical or emotional harm on the child or custodial parent/specified caretaker relative;
4. Medical records that indicate emotional health history and present emotional health status of the custodial parent/specified caretaker relative or the child;
5. Written statements from a mental health professional indicating a diagnosis or prognosis concerning the custodial parent/specified caretaker relative or child's emotional health;

Section: CHILD SUPPORT

Subject: Good Cause for Non-Cooperation

6. A written statement from a public or licensed private social agency that the agency is assisting the applicant/recipient to resolve the issue of whether to keep the child or relinquish him for adoption; or
7. Sworn statements from individuals other than the applicant/recipient with knowledge of the circumstances that provide the basis for the good cause claim.

EVALUATING GOOD CAUSE CLAIM

The county director or designee will determine that pursuing cooperation may be 'against the best interests of the child' based on the evidence provided by the applicant/recipient. The determination will be made within 30 days of the date a good cause claim is made. This time period may be extended only when the agency documents a need for additional time because information cannot be obtained within the time period or the claimant cannot provide evidence within this time period.

The following guidelines are provided to assist the county director or designee in the determination process:

A finding of good cause for reasonably anticipated physical or emotional harm to the custodial parent/specified caretaker relative must be of such nature or degree that it reduces the individual's capacity to adequately care for the child. Consideration will be given to the following:

1. The present emotional state of the individual subject to emotional harm;
2. The individual's emotional health history;
3. Intensity and probable duration of the emotional impairment;
4. The degree of cooperation required; and
5. The extent of the child's involvement in the pursuit of support.

In addition to making the good cause determination, the county director or designee must investigate a good cause claim when the:

1. Claim is based on the anticipation of physical harm and the county director/designee believes the claim is credible without supporting evidence and such evidence is not available; or
2. Individual's statement together with the supporting evidence does not provide a sufficient basis for making a determination.

NOTE: In conducting an investigation, it may become necessary to contact the non-custodial parent or reputed father. In that case, notify the applicant/recipient prior to making the contact. Give the applicant/recipient the opportunity to present additional evidence or information, to withdraw the application, or request case closure thus making the contact with the non-custodial parent unnecessary.

DETERMINING VALID GOOD CAUSE CLAIM

Prior to making a final determination of good cause, the county director or designee should afford Child Support Enforcement Division (CSED) the opportunity to review and comment on the findings and basis for the proposed determination and consider any recommendations as appropriate.

The final determination that good cause does or does not exist will:

1. Be documented in writing;
2. Contain the county director's/designee's findings and basis for the decision; and
3. Be entered into case notes.

If the good cause claim is denied:

1. Notify the applicant/recipient of the decision. The applicant/recipient must be given the opportunity to agree to cooperate and complete the CSED referral process, withdraw the application, or request case closure;
2. Inform the applicant/recipient that failure to cooperate as requested by CSED will result in his/her needs not being included in the medical coverage; and
3. Immediately file the HCS/CS-332 with CSED.

If the good cause claim is approved:

1. Notify the applicant or recipient of the decision; and
2. Do not sent the HCS/CS-332's to CSED. Retain in the case file.

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